

(1) Emission limit violations. (i) Programs imposing limits on mass emissions or emission rates that provide for extended averaging times and/or compliance on a multisource basis shall include procedures for determining the number of violations, the number of days of violation, and sources in violation, for statutory maximum penalty purposes, when the limits are exceeded. The State shall demonstrate that such procedures shall not lessen the incentive for source compliance as compared to a program applied on a source-by-source, daily basis.

(ii) Programs shall require plans for remedying noncompliance at any facility that exceeds a multisource emissions limit for a given averaging period. These plans shall be enforceable both federally and by the State.

(2) Violations of MRR requirements. The MRR requirements shall apply on a daily basis, as appropriate, and violations thereof shall be subject to State enforcement sanctions and to the Federal penalty of up to \$25,000 for each day a violation occurs or continues. In addition, where the requisite scienter conditions are met, violations of such requirements shall be subject to the Act's criminal penalty sanctions of section 113(c)(2), which provides for fines and imprisonment of up to 2 years.

§ 51.494 Use of program revenues.

Any revenues generated from statutory EIP's shall be used by the State for any of the following:

(a) Providing incentives for achieving emissions reductions.

(b) Providing assistance for the development of innovative technologies for the control of O₃ air pollution and for the development of lower-polluting solvents and surface coatings. Such assistance shall not provide for the payment of more than 75 percent of either the costs of any project to develop such a technology or the costs of development of a lower-polluting solvent or surface coating.

(c) Funding the administrative costs of State programs under this Act. Not more than 50 percent of such revenues may be used for this purpose. The use of any revenues generated from discretionary EIP's shall not be constrained by the provisions of this part.

Subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans

SOURCE: 58 FR 63247, Nov. 30, 1993, unless otherwise noted.

§ 51.850 Prohibition.

(a) No department, agency or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an applicable implementation plan.

(b) A Federal agency must make a determination that a Federal action conforms to the applicable implementation plan in accordance with the requirements of this subpart before the action is taken.

(c) Paragraph (b) of this section does not include Federal actions where either:

(1) A National Environmental Policy Act (NEPA) analysis was completed as evidenced by a final environmental assessment (EA), environmental impact statement (EIS), or finding of no significant impact (FONSI) that was prepared prior to January 31, 1994;

(2)(i) Prior to January 31, 1994, an EA was commenced or a contract was awarded to develop the specific environmental analysis;

(ii) Sufficient environmental analysis is completed by March 15, 1994 so that the Federal agency may determine that the Federal action is in conformity with the specific requirements and the purposes of the applicable SIP pursuant to the agency's affirmative obligation under section 176(c) of the Clean Air Act (Act); and

(iii) A written determination of conformity under section 176(c) of the Act has been made by the Federal agency responsible for the Federal action by March 15, 1994.

(d) Notwithstanding any provision of this subpart, a determination that an action is in conformance with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the NEPA, or the Act.